

Investment Savings Access After Catastrophes (ISAAC) Act of 2012

U.S. Representative Bill Cassidy, M.D. (R-LA-6)

Problem: Hurricane Isaac caused significant flooding and damage to personal property of both individuals and small businesses. The current tax code provides a certain level of tax relief for individuals in times of disasters. However, with such a tough economy and high unemployment, it is reasonable to provide additional targeted tax relief to those individuals impacted the most from Hurricane Isaac.

Current law and history of additional tax relief: The current tax code provides certain permanent tax benefits for individuals and businesses that experience damages resulting from a natural disaster in presidentially designated areas. These include:

- Sec. 165 establishes the general rule that taxpayers may deduct losses, including casualty losses, for which they are not compensated or reimbursed by insurance or otherwise.

Secs. 165(h)(1) and 165(h)(2) place limitations on the amount of the unreimbursed losses that individuals can deduct. Ordinarily, to figure a deduction for a casualty or theft loss of personal-use property resulting from a particular disaster, taxpayers must reduce the loss by \$100 and also reduce their total casualty and theft losses by 10% of their adjusted gross income. Only the excess over these \$100 and 10% limits is deductible. Businesses are generally not limited in deducting losses.

- A taxpayer who sustains a loss due to a presidentially declared disaster may elect to deduct the loss on his or her return for the immediately preceding tax year in order to receive an expedited tax benefit. For example, a taxpayer who suffers a disaster loss any time during 2006 may elect to deduct it on his or her 2005 return; if the 2005 return has already been filed, the taxpayer may file an amended 2005 return. Otherwise, the taxpayer may wait and deduct it on his or her 2006 return in the regular manner.
- A net operating loss (NOL) occurs when, during a tax year, a taxpayer's allowable tax deductions are greater than the taxable income, resulting in a negative taxable income. This generally occurs when the taxpayer has incurred more expenses than income during the year.

In general, a NOL may be carried back and deducted against taxable income in the two tax years before the NOL year, and then carried forward and applied against taxable income for up to 20 years after the NOL year. These methods are known as "carrybacks" and "carryovers," respectively.

A three-year carryback for a NOL is allowed when an individual taxpayer sustains a loss of property from fire, storm, shipwreck or other casualty, or from theft.

A three-year carryback for a NOL is allowed for small businesses and farms that sustained NOLs due to presidentially declared disasters.

Our Proposal: The ISAAC Act would provide the following additional tax benefits to specified federally declared disaster areas (Louisiana and Mississippi) where there has been significant property loss and damage:

- Eliminate the \$100 and 10 percent of AGI limitations on the amount of the unreimbursed losses that individuals can deduct for specified areas in which the flooding and damage from Hurricane Isaac was especially bad.
- Increase the carryback period from three to five years for individuals and small businesses and farms that experienced significant loss. This is especially important to allow them to calculate from pre-recession profit levels. Additionally, the 90 percent limitation on the alternative tax net operating loss deduction would be eliminated for these individuals and small businesses.
- Allow individuals to take out funds from their individual IRAs or other retirement accounts tax free subject to a cap of 100,000. They could then pay this total amount back tax free without being subject to the contribution cap for a period of three years.
- The bill is fully offset by directing the Director of the Office of Management and Budget (OMB) to identify appropriated, discretionary, unexpired and unobligated federal funds in the amount the bill would score.